

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

Petitioner

File No. 87245-001

v

Blue Cross and Blue Shield of Michigan
Respondent

_____/

**Issued and entered
this 28th day of March 2008
by Ken Ross
Commissioner**

ORDER

**I
PROCEDURAL BACKGROUND**

On February 21, 2008, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* The Commissioner reviewed the request and accepted it on February 28, 2008.

The Commissioner notified Blue Cross and Blue Shield of Michigan (BCBSM) of the external review and requested the information used in making its adverse determination. The Commissioner received BCBSM's response on March 12, 2008. Additional information was provided by BCBSM on March 18, 2008.

The issue in this external review can be decided by a contractual analysis. The contract here is the BCBSM Dental Options Group Benefit Certificate (the certificate). Rider DO-WP 0/0/12 (Dental Options-Waiting Period) and Dental Blue Choice also applies. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II FACTUAL BACKGROUND

The Petitioner broke a tooth while chewing food and began having pain on July 25, 2007. She went to the dentist on July 30, 2007, and a temporary composite was placed on the tooth. BCBSM paid for the office visit and x-ray on July 30, 2007.

On August 24, 2007, a permanent crown was placed on the tooth but BCBSM denied coverage for the \$772.00 cost of the crown.

The Petitioner appealed BCBSM's failure to pay for her crown. BCBSM held a managerial-level conference on January 28, 2008, and issued a final adverse determination dated January 31, 2008.

III ISSUE

Is BCBSM required to pay for the Petitioner's dental crown provided on August 24, 2007?

IV ANALYSIS

Petitioner's Argument

The Petitioner's tooth # 15 was broken while she was eating, "literally crumbling" into her mouth. The nerves were exposed causing constant pain. Her dentist prescribed pain medication and on July 30, 2007, he placed a temporary flowable composite material over the broken area to shield it from the air and to see if her discomfort would subside. On August 24, 2007, the tooth was restored with a permanent crown.

The Petitioner says this was not an elective situation -- the tooth had fractured and required a crown to correct the problem. She believes that the placement of her crown was an emergency situation and therefore, not subject to the waiting period in her dental coverage. She also points to the Blue Dental Choice "Benefits-at-a-Glance," which shows "palliative (emergency) treatment" as a covered benefit.

The Petitioner argues that BCBSM is required to pay for her crown.

BCBSM's Argument

BCBSM says that the certificate and its rider set forth the benefits that are covered. Rider DO-WP 0/012 amended the certificate by adding a waiting period for certain benefits:

When Your Benefits Begin

Most benefits are available on the effective date of your contract. However, for Class III services, a waiting period, which begins on the effective date of your dental coverage, applies as follows:

- A 12 month waiting period for Class III benefits

Blue Dental Choice, which is also part of the Petitioner's contract, classifies as Class III services "onlays, crowns and veneer fillings – permanent teeth." Therefore, under the Petitioner's dental coverage a crown is subject to the 12-month waiting period.

According to BCBSM, the Petitioner's dental coverage went into effect on January 20, 2007, and the waiting period for Class III services was not satisfied until January 19, 2008. Since the Petitioner's crown was placed on August 24, 2007, it was provided during the waiting period and was not a covered benefit at the time.

Commissioner's Review

The certificate and applicable riders describes how benefits are paid. Rider DO-WP 0/012 establishes a 12-month waiting period for Class III services. The Blue Dental Choice plan defines Class III services to include dental crowns.

The Petitioner did not contest BCBSM's assertion that her coverage began on January 20, 2007. Therefore, under the terms of the rider, the waiting period did not end until January 19, 2008, and the crown the Petitioner received on August 24, 2007, was indisputably within the 12-month waiting period. Since crowns are included in the Class III services that are subject to the waiting period, the Petitioner's crown is not a covered benefit.

The Petitioner argues that the waiting period should be waived because the placement of the crown was in the nature of emergency treatment. Her coverage does apparently include

“palliative (emergency) treatment” as a Class II benefit. However, while the Commissioner does not doubt that the Petitioner’s pain required quick dental attention in July, the crown itself was placed not in an emergency but three weeks after she first saw her dentist.

The Commissioner finds that BCBSM has correctly applied the provisions of the Petitioner’s certificate and riders when it determined the Petitioner’s August 24, 2007, dental crown was subject to the 12 month waiting period and is not a covered benefit.

**V
ORDER**

BCBSM’s final adverse determination of January 31, 2008, is upheld. BCBSM is not required to pay for the Petitioner’s August 24, 2007, dental crown since it is not a covered benefit.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720